

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

MICHAEL JOE GREEN,

*

JOHNNY BROWN and

*

ALETHA JOHNSON

*

PLAINTIFFS,

*

2:07-cv-92-WKW-CSC

VS.

*

CITY OF MONTGOMERY, a municipal corporation,

J.J. ALLEN, individually and officially and*

HENRY DAVIS, individually and officially*

DEFENDANTS.

*

MOTION TO REMAND TO STATE COURT

Now come the plaintiffs by and through the undersigned and hereby move this honorable court to remand the above styled cause to the court of original jurisdiction, the Circuit Court of Montgomery County, Alabama. As grounds for such motion, the plaintiffs submit the following:

1. The defendants removed the above styled cause on or about February 1, 2007, from the Circuit Court of Montgomery County, Alabama to the United States District Court, Middle District of Alabama, Northern Division.
2. As grounds for removal, the defendants cited a federal question in the plaintiffs' complaint to which the federal courts of the United States have jurisdiction. However, under certain circumstances, federal courts may share jurisdiction with

state courts and when this occurs, the matter may not be taken from the court which first exercises jurisdiction.

3. The defendants removed the action from state court to federal court in hopes of “restarting the clock” in order to frustrate and delay the plaintiffs’ in rem proceeding pending in the Circuit Court of Montgomery, Alabama.
4. The plaintiffs contend that removal of this matter was neither necessary nor proper. However, in order to alleviate any confusion and conserve the resources and time of the court, the plaintiffs, in their amended complaint, dismissed the aversion of a violation of due process under the Fourteenth Amendment to the United States Constitution, the federal question giving cause for removal.
5. With the federal question dismissed from the plaintiffs’ pleading, no federal question remains, and the laws and rules governing removal no longer apply. The remaining issues are state law claims which the courts of the State of Alabama have jurisdiction.

Wherefore, premises considered, the plaintiffs pray that this court remand the action to the Circuit Court of Montgomery County, as soon as possible, so that justice for the plaintiffs may not be denied by the delay tactics of the defendants.

Respectfully Submitted,

/s/ Joe M. Reed
Joe M. Reed
Attorney for Plaintiffs

Certificate of Service

I hereby certify that the foregoing was served by the United States District Court Clerk via electronic notification to the honorable Michael Boyle, Legal Department of the City of Montgomery, P.O. Box 1111, Montgomery, Alabama, 36101.

/s/ Joe M. Reed
Joe M. Reed